

The Ontario Weekly Notes

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HIGH COURT OF JUSTICE.

BRITTON, J., IN CHAMBERS.

FEBRUARY 6TH, 1912.

STAVERT v. CAMPBELL.

Appeal to Divisional Court—Leave to Appeal from Order of Judge in Chambers—Stay of Execution upon Appeal to Privy Council—Construction of 10 Edw. VII. ch. 24, secs. 3, 4, 5.

An application by the defendant for leave to appeal from the order of CLUTE, J., ante 591, dismissing an application by the defendant to set aside a writ of fieri facias issued against the goods and chattels of the defendant, after the defendant had given security and perfected the same pursuant to 10 Edw. VII. ch. 24, secs. 3 and 4.

F. Arnoldi, K.C., and F. McCarthy, for the defendant.
F. R. MacKelcan, for the plaintiff.

BRITTON, J.:—The order allowing the sum of \$2,000 paid into Court as sufficient security on the appeal herein to His Majesty in His Privy Council was made in the Court of Appeal on the 15th November, 1911.

The defendant contended that the security given so operated, under the Act cited, as a stay of proceedings. The plaintiff contended otherwise.

On the 19th December, 1911, the plaintiff's solicitors, having issued a writ of fieri facias against the defendant, notified the defendant's solicitors of the same, and stated that they were holding the writ in order that the defendant's solicitors might move to set it aside. The defendant's solicitors moved accordingly, and Mr. Justice Clute, who heard the defendant's motion, dismissed it.

I am asked to grant leave to appeal from that decision and order.